

REMARKS

Entry of the foregoing amendments to the application is requested on the grounds that the claims, as amended, patentably distinguish over the cited art of record or, alternatively, place the application in better condition for appeal. The claims more particularly point out and distinctly claim the subject matter which Applicants regard as the invention. No new issues have been added which would require further consideration and/or search, nor has any new matter been added. The claims as amended are believed to avoid the rejections applied in the Final Office Action for reasons set forth more fully below.

The Final Office Action of September 13, 2007 has been received and carefully reviewed. It is submitted that, by this Amendment, all bases of rejection are traversed and overcome. Upon entry of this Amendment, claims 20-23 and 25 remain in the application. Claims 1-19 are cancelled herein without prejudice. Reconsideration of the claims is respectfully requested.

Claims 20-23 and 25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Barlow (U.S. Patent Pub. No. 2001/0005797) and further in view of Sherwood (U.S. Patent Pub. No. 2003/0114936).

Applicants' invention as defined in currently pending claim 20 recites that the composition has surface pores that are no larger than about 10 microns.

In sharp contrast, Barlow teaches an average pore size down to 50 microns. Sherwood teaches a combination of primary pores that are greater than 100 microns and secondary pores that are less than 10 microns.

The invention as defined in Applicants' claim 1 is clearly distinguishable from both Barlow and Sherwood, in part because Applicants' claims exclude pores as large as 50 or 100 microns. Furthermore, it is submitted that one skilled in the art would not be led to substitute the larger pores in Barlow or Sherwood with smaller pores, in part because the larger pores of Barlow enable more infiltrant to be saturated therein, and the larger pores of Sherwood are used for seeding cells for forming bone.

For all the reasons stated above, it is submitted that Applicants' invention as defined in independent claim 20, as well as in those claims depending therefrom, is not anticipated, taught or rendered obvious by the cited references, either alone or in combination, and patentably defines over the art of record.

In summary, claims 20-23 and 25 remain in the application. It is submitted that, through this Amendment, Applicants' invention as set forth in these claims is now in a condition suitable for allowance. Should the Examiner believe otherwise, it is submitted that the claims as amended qualify for entry as placing the application in better form for appeal.

Further and favorable consideration is requested. If the Examiner believes it would expedite prosecution of the above-identified application, the Examiner is cordially invited to contact Applicants' Attorney at the below-listed telephone number.

Respectfully submitted,

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